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Subject

322

65-4435

Acting Chief, Personnel Division (C)

30 July 1953

Office of General Counsel

Resignation of Employee Overseas Prior to
Completion of One Year's Service.

1. You have requested the opinion of this office regarding the requirement for recovery of moneys expended for travel and transportation to an overseas post, of an employee who resigned prior to completion of one year's service at the post of assignment. The requirement is determined by the fact situation of each particular case.

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2. [REDACTED] "Travel and Related Items", provides in part as follows:

"Travel and transportation expenses and expenses incident thereto . . . may be paid to or on behalf of employees in accordance with the provisions of Public Law 600 - 79th Congress . . . Public Law 830 - 81st Congress . . . regulations issued thereunder . . . and as specified in Agency Regulations."

Executive Order 10196, dated 22 December 1950 titled "Amendment of Executive Order 9805 Prescribing Regulations Governing Payment of Certain Travel and Transportation Expenses", which is issued under the authority of public Law 600 as amended by Public Law 830, states in part:

"Sec. 4. Payment of expenses. The travel and transportation expenses allowable under these regulations, when authorized or approved by such subordinate official or officials as the head of the department concerned may designate, shall be paid in case of transfer from one official station to another . . . for permanent duty, but in no case in which the transfer is made primarily for the convenience or benefit of the employee or at his request . . . The expenses of travel and transportation in connection with the transfer of officers and employees to posts of duty outside the continental limits of the United States shall not be allowed unless and until the officer or employee selected for such transfer shall agree in writing to remain in the Government service for twelve months following

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the effective date of this transfer, unless separated for reasons beyond his control and acceptable to the department or agency concerned. In case of violation of such agreement any moneys expended by the United States on account of such travel and transportation shall be recoverable from the individual concerned as a debt due the United States . . ." (Emphasis supplied).

3. The present fact situation, as we understand it, relates to a female employee who, approximately one month after her arrival overseas, was married (to another Agency employee). Starting some four or five weeks after her marriage she was forced to take frequent and extended leaves of absence due to ill health arising out of pregnancy, with final termination of employment by resignation some eight or nine months after arrival overseas.

4. On the fact situation as stated, it could be found that termination was for reasons beyond the control of the employee. It might well follow therefrom that the reason for termination, illness, is one that is acceptable to the Agency. From the facts as stated in paragraph 3 no question is raised regarding the bona fides of the transfer to the overseas post. In consequence, it appears that the question to be answered is whether illness incurred at an overseas post, arising out of pregnancy or other cause, constitutes a "reason beyond his control and acceptable to the department or agency concerned."

5. It is recommended by this office that, if a serious doubt exists as to the completeness or accuracy of the facts as stated above, further information be obtained before final determination is reached.

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